

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
CONDITIONAL USE PERMIT REPORT (#FCU-13-01)
FALCON DEVELOPMENT INC.
MARCH 19, 2013

This is a report to the Flathead County Board of Adjustment regarding a request from George Joseph on behalf of the Falcon Development Inc. for a conditional use permit to allow for an 8 unit apartment building on the subject property. The subject property is located within the Evergreen Zoning District and is zoned 'RA-1 Residential Apartments.'

The Flathead County Board of Adjustment will hold a public hearing on the proposed conditional use on April 2, 2013 beginning at 6:00 P.M. in the 2nd floor conference room of the Earl Bennett Building, 1035 First Avenue West, Kalispell. Documents pertaining to this file are available for public inspection in the Flathead County Planning and Zoning Office, also located on the second floor of the Earl Bennett Building.

I. APPLICATION REVIEW UPDATES

A. Land Use Advisory Committee/Council

The proposed land use is not located within the advisory jurisdiction of a Land Use Advisory Council.

B. Board of Adjustment

This space is reserved for an update regarding the April 2, 2013 Flathead County Board of Adjustment review of the proposal.

II. GENERAL INFORMATION

A. Application Personnel

i. Applicant

George J. Joseph
215 Fox Hollow Lane
Whitefish, MT 59937

ii. Landowner

Falcon Development, Inc.
215 Fox Hollow Lane
Whitefish, MT 59937

B. Property Location and Size

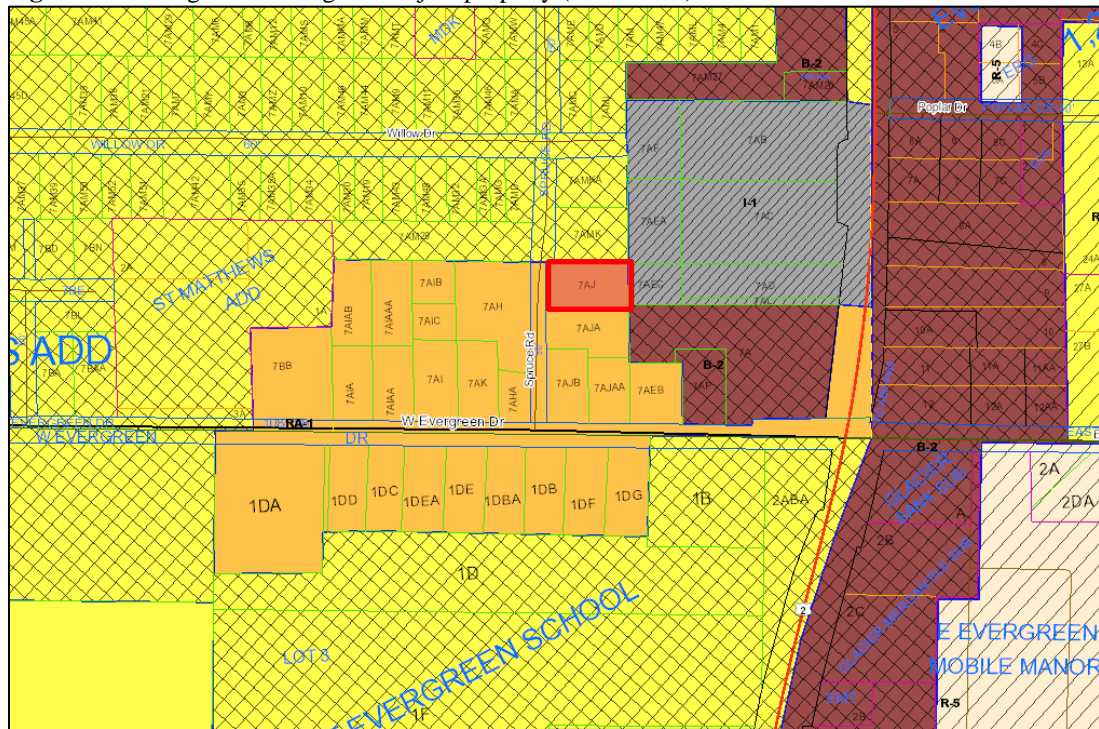
The subject property is located on the east side of Spruce Road less than a tenth of a mile north of W Evergreen Drive, the address is 215 Spruce Road, and is approximately 0.527 acres. The property can be legally described as Tract 1 of COS 8542 (aka Tract 7AJ) in Section 33, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana (see Figure 1 below).

[illegible]

The property is currently undeveloped and is located within the Evergreen Zoning District and is zoned ‘RA-1 Residential Apartments,’ a district intended to “*provide areas for multi-family use and for non-residential uses, which support or are compatible with the primarily residential character. This district is intended as a buffer between residential districts and other non-residential districts. This district shall be served by community water and sewer and have immediate access to fire, police, refuse, and park facilities.*”

The adjacent properties to the north are zoned R-3 the properties to the south and west are RA-1, and the properties to the west are zoned I-1 and B-2. The properties to the north and west contain single family homes, to the east are industrial land uses and a church. The properties to the south consist of a vacant lot, an apartment building and a single family home.

Figure 2: Zoning surrounding the subject property (shaded red)



E. Summary of Request

The applicant is proposing to construct an 8 unit apartment building on the subject property, which would meet the definition of multi-family “*buildings designed to house three or more families living independently of each other in separate dwelling units but having one yard in common*” [Section 7.05.120 FCZR]. Multi-family dwellings require a conditional use permit under RA-1 zoning [Section 3.15.030(14)].

F. Compliance With Public Notice Requirements

Notification was mailed to property owners within 150 feet of the subject property on March 11th, 2013, pursuant to Section 2.06.040(3) of the Flathead County Zoning Regulations. Legal notice of the public hearing on this application will be published in the March 17, 2013 edition of the Daily Interlake.

G. Agency Referrals

Referrals were sent to the following agencies on February 21, 2013:

- Flathead County Road and Bridge Department
 - Reason: The property is located on a county road, and has the potential to impact county facilities.
- Flathead County Solid Waste (FCSW)
 - Reason: The property is located within the department’s jurisdiction, and has the potential to impact county facilities.
- Evergreen Fire Department
 - Reason: The property is located within the department’s jurisdiction, and has the potential to impact Evergreen Fire Department response.

- Evergreen Water and Sewer District
 - Reason: The property is located within the department's jurisdiction, and has the potential to impact Evergreen Water and Sewer District facilities.
- Flathead City-County Environmental Health Department
 - Reason: The property is located within the department's jurisdiction.
- Flathead County Weeds and Parks Department
 - Reason: The property is located within the department's jurisdiction and new construction could lead to the development of weeds of the subject property.
- Montana Department of Natural Resources and Conservation
 - Reason: The DNRC has requested a copy of all agency referrals.
- Bonneville Power Administration
 - Reason: The BPA has requested a copy of all agency referrals.
- Evergreen Elementary School District
 - Reason: Property is located within school district boundaries and has potential to impact Evergreen Elementary School District facilities.
- Flathead High School District
 - Reason: Property is located within school district boundaries and has potential to impact Flathead High School District facilities.

III. COMMENTS RECEIVED

A. Public Comments

No written public comments have been received to date regarding the conditional use permit request. It is anticipated any individual wishing to provide public comment on the proposal will do so during the public hearing scheduled for April 2, 2013. Any written comments received following the completion of this report will be provided to the Board and summarized during the public hearing.

B. Agency Comments

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Flathead City-County Health Department
 - Comment: The parcels have previously been reviewed by this office and the Subdivision Section of the Department of Environmental Quality for compliance with Sanitation in Subdivision Act. Any additional development or change in the previously approved development in accordance with the Certificate of Subdivision Plat Approval will require a subsequent review and approval for water supply, sewage treatment and storm drainage. A private consultant must be obtained for the process.
- Flathead County Road and Bridge Department
 - Comment: Office had no comments regarding this proposal.
- Flathead County Solid Waste District
 - Comment: The district views no negative impact with solid waste issues at this time. The district requests that all solid waste generated at the proposed location be hauled by a private hauler. Evergreen

Disposal is the licensed (PSC) Public Service Commission licensed hauler in the area.

- Evergreen Water and Sewer District
 - Comment: The district's water and sewer is available to this development, however the applicant needs to talk to us and bring in a current set of plans so we can review what he intends to do. The last time we discussed and looked at this was 2009. We would also want an updated letter from Evergreen Volunteer Fire Department to determine if there are any fire protection issues. I do seem to remember there was a sewer main extension necessary which would require approval from DEQ.
- Kalispell Public Schools
 - Comment: The proposed project would have limited impact on Glacier High School

IV. CRITERIA REQUIRED FOR CONSIDERATION

Per Sections 2.06.080 and 2.06.100 of the Flathead County Zoning Regulations, what follows are criteria required for consideration of a Conditional Use Permit and suggested findings of fact based on review of each criterion.

A. Site Suitability

i. Adequate Usable Space

In the 'RA-1' zone, the minimum lot size is 7,500 square feet, plus an additional 1,500 square feet for each dwelling unit in excess of two. This project therefore requires a minimum lot size of 16,500 square feet. The subject property is a vacant lot approximately 22,960 square feet in size. Based on the site plan submitted with the application the applicant is proposing to build a 3,800 square foot building. The permitted lot coverage in an RA-1 zone is 35%; the proposed building would cover 16.5% of the lot.

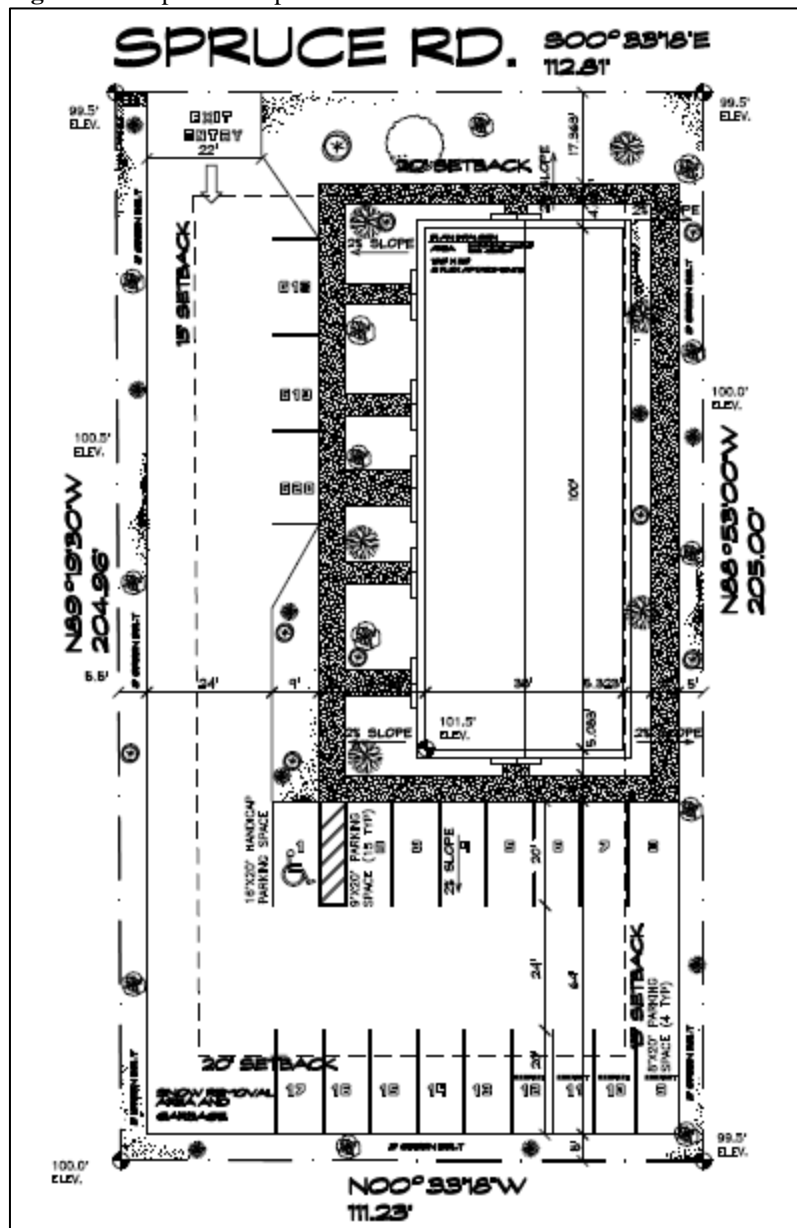
Figure 3: Lot is currently vacant



The proposal provides for 20 off-street parking spaces, a 5 foot landscaping around the property boundary and a sidewalk connecting the parking area with the entryways (see Figure 3). The front and rear setbacks for the property are 20 feet. The site plan shows the side setback as 15 feet, which is required for a 3-plex or larger, and the building located outside the setbacks. Based on the submitted site plan and staff's site visit there appears to be adequate space to accommodate the proposed use on the property.

Finding #1 – The subject property appears to contain adequate usable space because the lot is approximately 22,960 square feet, the proposed building will be located outside the setbacks, the building will cover 16.5% of the lot, and there will be adequate room for parking, and a landscape buffer.

Figure 4: Proposed site plan



ii. Adequate Access

The subject property is located on Spruce Road, a paved 20 foot wide, two lane road within a 30 foot easement. The site plan shows one access point located at the southwest corner of the property via Spruce Road. The application states that the surface for the access will be professionally engineered and finished in concrete and/or asphalt by a local paving contractor. An agency referral was sent to the County Road and Bridge Department and they had no comment regarding the proposed use. Per Section 6.11.010 [FCZR], no driveway in the front yard setback shall be wider than 22 feet; the approach is proposed to be 22 feet and would provide ingress and egress to the property. Based on staff's site visit it appears there is adequate sight distances from the proposed accesses to enter and exit the property safely. All access onto county roads shall have been approved by the County Road and Bridge Department with the issuance of an approach permit, per Section 6.16.020(4) [FCZR].

Figure 5: Spruce Road in front of subject property



Finding #2 – There is adequate access for the proposed use because the site plan shows a 22 foot wide driveway within the front setback, there is adequate sight distance to safely enter and exit the property and the applicant will need to obtain an approach permit from Flathead County Road and Bridge Department.

iii. Absence of Environmental Constraints

The subject property is relatively flat with no significant elevation changes. The majority of the property is open space with over grown weeds on the north side. The subject property is located on FEMA FIRM panel 30029C 1810G, the lot is located in an un-shaded Zone X, which is classified as an area outside the 500-year floodplain. The floodplain designation will not change upon the adoption of the updated FIRM Panel 30029C 1810H. Additionally, there are no

wetlands, streams, or creeks located on the parcel, and there appears to be no other environmental constraints.

Finding #3 – As proposed, the multi-family apartments appears to not have any environmental constraints because the property is flat, not located in a designated floodplain, and no wetlands, streams or creeks are located on the subject property.

B. Appropriateness of Design

i. Parking Scheme

According to the submitted application and site plan, the applicant is proposing 20 parking spaces including 15 standard, 4 compact and 1 handicapped. Section 6.02.030 of the Flathead County Zoning Regulations requires that multi-family dwellings have 2 parking spaces per dwelling unit. Furthermore, off-street visitor parking shall be provided equal to 1 parking space per every 4 living units. The applicant is proposing to build an 8 unit apartment therefore the applicant would be required to provide approximately 16 parking spaces for residents and another 2 for guests. Per Section 6.01.010(6) [FCZR], 20% of the parking spaces are allowed to be compact if the parking lot contains more than 4 spaces. Section 6.01.010 [FCZR] indicates a parking space for standard vehicles measures 9 X 20 feet and a parking space for compact vehicles measures 8 X 16 feet. Based on the applicant's submitted site plan and staff's site visit to the subject property, there appears to be adequate space for the required parking.

The site plans shows a driving lane, between parking spaces, 24 feet wide for two-way traffic, meeting the requirements set forth in Appendix A [FCZR] based on the angle of the parking. Section 6.01.030 [FCZR] requires all parking spaces to be clearly designated and demarcated, therefore, the applicant will be required to clearly designate and demarcate parking spaces.

Finding #4 – The proposed designated parking scheme is acceptable because the site plan shows 20 designated and demarcated parking spots more than the 18 required, and a 24 foot wide driving lane.

ii. Traffic Circulation

The site is accessed from Spruce Road, a paved two lane county road. The site plan shows traffic aisles approximately 22 feet to 24 feet wide. The 24 foot traffic aisle is required for two way traffic with 90 degree parking per Appendix A [FCZR]. The driveway width of 24 feet would provide for adequate travel lanes and area to turn around. The proposed parking area appears large enough to accommodate the number of proposed spaces, while affording adequate and compliant internal traffic circulation.

Finding #5 – There appears to be adequate traffic circulation for the proposed use because the proposed traffic aisle widths meet standards set forth in Appendix A [FCZR].

iii. Open Space

The subject property is approximately 0.5 acres in size and the proposed apartment building would cover about 16.5% of the total lot; additionally the parking lot will cover the rear and one of the side yards. The front yard and an area between the building and side parking lot will remain open space. Additionally, a 5 foot landscape stripe is being proposed along the boundary of the property. The proposed size of the building and location shown on the site plan would be able to comply with the setbacks within an RA-1 zone.

iv. Fencing/Screening

The application states that either fencing or screening would be placed on the property within the required 5 feet of landscaping between the parking area and the neighboring properties, [Section 6.11.040 FCZR]. Any fencing constructed on the property would be required to comply with Section 5.04 [FCZR].

v. Landscaping

The application states, “Landscaping will be constructed by a professional landscaping contractor as per the site plan. Sprinkler system will be installed to ensure proper growth and management.” Landscaping is required within RA-1 zones when open air parking is located within the side and rear setbacks to serve 3-plex or larger residential uses [Section 6.11.040 FCZR]. Since the applicant is proposing to build an 8 unit apartment building and open parking is proposed within the setback, a 5 foot landscaping and solid screening area is required to be provided adjacent to the adjoining property boundary.

Finding #6 – The proposed open space, fencing/screening, and landscaping on the subject property appear adequate because the proposed use will cover only 16.5% of the lot, the applicant is providing a 5 foot landscaping and solid screening area and will provide screening or fencing in accordance with Section 5.04 [FCZR].

vi. Signage

The applicant is not proposing any signs at this time. However, the application states, “If any signs are installed they will confirm with the sign standards for this district” [Section 5.03 FCZR].

Finding #7 – There will be limited impacts resulting from signage because the applicant has stated that any signage would comply with sign standards set forth in the Flathead County Zoning Regulations.

vii. Lighting

It appears likely that because the building is a multi-family residence, exterior lighting would be included. The applicant has stated, “Any and all lighting, if used will be shielded and directed onto the subject property.” If the applicant wishes to install lighting it must comply with performance standards set forth in [FCZR] Section 5.12.

Finding #8 – There will be limited visual impacts resulting from lighting because any proposed lighting would be required to comply with applicable requirements set forth in the Flathead County Zoning Regulations.

C. Availability of Public Services and Facilities

i. Sewer

The subject property is located within the Evergreen Water and Sewer District. It is anticipated the property will be served by the public water and sewer district. Comment received from the Evergreen Water and Sewer District states, “Water and sewer service is available to this development, however Mr. Joseph needs to talk to us and bring in a current set of plans so we can review what he intends to do. I do seem to remember there was a sewer main extension necessary which would require DEQ approval.”

Comment was also sought from Flathead City/County Health Department (FCCHD). According to FCCHD, “These parcels have previously been reviewed by this office and the Subdivision Section of the Department of Environmental Quality for compliance with Sanitation in Subdivision Act. Any additional development or change in the previously approved development in accordance with the Certificate of Subdivision Plat Approval will require a subsequent review and approval for water, sewage treatment and storm drainage. A private consultant must be obtained for the process.” The applicant will be required to discuss the project with the Evergreen Sewer and Water District to ensure sewer service for the subject property.

ii. Water

The subject property is located within the Evergreen Water and Sewer District. It is anticipated the property will be served by the public water and sewer district. Comment received from the Evergreen Water and Sewer District states, “Water and sewer service is available to this development, however Mr. Joseph needs to talk to us and bring in a current set of plans so we can review what he intends to do. We would also require an updated letter from Evergreen Volunteer Fire Department to determine if there are any fire protection issues.”

Comment was also sought from Flathead City/County Health Department (FCCHD). According to FCCHD, “These parcels have previously been reviewed by this office and the Subdivision Section of the Department of Environmental Quality for compliance with Sanitation in Subdivision Act. Any additional development or change in the previously approved development in accordance with the Certificate of Subdivision Plat Approval will require a subsequent review and approval for water, sewage treatment and storm drainage. A private consultant must be obtained for the process.” The applicant will be required to discuss the project with the Evergreen Sewer and Water District to ensure water service for the subject property.

Finding #9 – The proposed use is expected to minimally impact public water and sewer services because water and sewer service is available from the Evergreen Water and Sewer District, and it is anticipated a sewer main extension will be required, which will require DEQ approval.

iii. Storm Water Drainage

The applicant is proposing that all storm water be directed towards the landscaped areas surrounding the properties and the site plan proposes a drainage swale area to be located within the front setback. Previously approved DEQ (Department of Environmental Quality) COSA shows a cistern to capture storm water run-off located under the proposed parking lot.

Anytime a parcel has a change of use, in this case it would be a change from a vacant lot to an apartment building; it prompts a review from DEQ. According to FCCHD, "These parcels have previously been reviewed by this office and the Subdivision Section of the Department of Environmental Quality for compliance with Sanitation in Subdivision Act. Any additional development or change in the previously approved development in accordance with the Certificate of Subdivision Plat Approval will require a subsequent review and approval for water, sewage treatment and storm drainage. A private consultant must be obtained for the process." It appears as though what is being proposed is similar to what was previously approved in 2007 and would likely not be subject to a subsequent review by DEQ.

Additionally, all parking areas and access driveways shall have at a minimum, per Section 6.11.030(1) [FCZR], adequate drainage so that injuries not be caused to adjacent properties nor will water drain across a public walk. All storm water run-off is required to be absorbed on-site.

Finding # 10 – The proposed method of storm water management appears adequate because the applicant will continue to manage storm water runoff on-site through absorption techniques using open space, construct a drainage swale and the property was previously reviewed for appropriate storm water management.

iv. Fire Protection

The subject property is currently served by the Evergreen Fire Department, and is located approximately 1/4 of a mile southwest of an existing fire station. Due to the centralized location of the property in Evergreen, it is anticipated response times in the event of an emergency would not be unreasonably long. The applicant states, "The building will be engineered and built to current state and federal commercial building codes. The applicant will install additional fire hydrants if required by the fire department."

v. Police Protection

The property would be served by the Flathead County Sheriff's Department. Quick response times are possible given the property's proximity to an urban, developed area of the County.

vi. Streets

The subject property is accessed via Spruce Road, a paved two lane local county road. Spruce Road is maintained by the Flathead County Road and Bridge Department. The property is located less than a 1/10 of a mile north of West Evergreen Drive which would likely be used by many of the residents of the

proposed apartment building. West Evergreen Drive is classified as a collector and is a paved two lane road with a 60 foot right-of-way.

Finding #11 – The proposed use appears to have acceptable impacts on public services and facilities because the Evergreen Fire Department and Flathead County Sheriff could provide services to the subject property with an acceptable response time and the property is accessed by Spruce Road, a paved local county road.

D. Immediate Neighborhood Impact

i. Excessive Traffic Generation

The 8 units proposed on the subject property would create a total of 80 vehicle trips per day as a result of the request. As previously discussed, Spruce Road is a paved two lane local county road and West Evergreen is a paved two lane collector. The subject property is located within a RA-1 zone and there are other multi-family apartments in the neighborhood. The amount and type of traffic resulting from the proposed use is anticipated to be similar to existing traffic conditions in the area and around the intersection of Spruce Road and West Evergreen Drive, and would appear to not generate excessive traffic.

Finding #12 – Additional vehicle traffic associated with the proposed use is not anticipated to generate excessive traffic which would adversely impact the immediate neighborhood because the traffic generated from the proposed use is anticipated to be similar to existing traffic conditions in the area.

ii. Noise or Vibration

No noise or vibration beyond what is typical for a residential area is anticipated as a result of the proposed multi-family dwelling. While some noise and vibration will naturally result from construction activities related to the development of the additional 8 units, these impacts will be limited in duration and should not negatively impact the surrounding area.

iii. Dust, Glare or Heat

Excessive dust is not anticipated as a result of the proposed multi-family dwelling, as both Spruce Road and West Evergreen Drive are paved roadways. While some dust is anticipated during construction activities, the resulting impacts will be limited, similar to the impacts of construction noise and vibration. As with any development, increased impervious surface area and windows do have the potential to increase the impacts of glare and heat on the subject property as well as surrounding area. However, these impacts can be mitigated by retaining open space on the subject property in conformance with the bulk and dimensional requirements of the zoning and ideally, landscaping these areas or maintaining them as grass or other types of pervious surfaces.

iv. Smoke, Fumes, Gas, or Odors

The proposed multi-family dwelling is not expected to create any smoke, fumes, gas or odors beyond those typically associated with residential activities. The proposed use should not have an impact on the surrounding neighborhood with regard to these types of emissions.

v. Inappropriate Hours of Operation

The proposed multi-family dwelling will operate as is typical for a residential area; no hours of operation have been proposed by the applicant or are necessary for a residential dwelling.

Finding #13 – The proposed use is not anticipated to have an immediate neighborhood impact because the multi-family dwelling will not create excessive noise, vibration, dust, heat, glare, smoke, fumes, gas or other odors, and will operate in a manner consistent with residential uses and the surrounding residential area.

V. SUMMARY OF FINDINGS

Finding #1 – The subject property appears to contain adequate usable space because the lot is approximately 22,960 square feet, the proposed building will be located outside the setbacks, the building will cover 16.5% of the lot, there will be adequate room for parking, and a landscape buffer.

Finding #2 – There is adequate access for the proposed use because the subject property is located off Spruce Road, there is adequate sight distance to safely enter and exit the property and the applicant will need to obtain an approach permit from Flathead County Road and Bridge Department.

Finding #3 – As proposed, the multi-family apartments appears to not have any environmental constraints because the property is flat, not located in a designated floodplain, and no wetlands, streams or creeks are located on the subject property.

Finding #4 – The proposed designated parking scheme is acceptable because the site plan shows 20 designated and demarcated parking spots more than the 18 required, and a 24 foot wide driving lane.

Finding #5 – There appears to be adequate traffic circulation for the proposed use because the proposed traffic aisle widths meet standards set forth in Appendix A [FCZR].

Finding #6 – The proposed open space, fencing/screening, and landscaping on the subject property appear adequate because the proposed use will cover only 16.5% of the lot, the applicant is providing a 5 foot landscaping and solid screening area and will provide screening or fencing in accordance with Section 5.04 [FCZR].

Finding #7 – There will be limited impacts resulting from signage because the applicant has stated that any signage would comply with sign standards set forth in the Flathead County Zoning Regulations.

Finding #8 – There will be limited visual impacts resulting from lighting because any proposed lighting would be required to comply with applicable requirements set forth in the Flathead County Zoning Regulations.

Finding #9 – The proposed use is expected to minimally impact public water and sewer services because water and sewer service is available from the Evergreen Water and

Sewer District, and it is anticipated a sewer main extension will be required, which will require DEQ approval.

Finding #10 – The proposed method of storm water management appears adequate because the subject property will continue to manage storm water runoff onsite through absorption techniques using open space , and the property was previously reviewed for appropriate storm water management.

Finding #11 – The proposed use appears to have acceptable impacts on public services and facilities because the Evergreen Fire Department and Flathead County Sheriff could provide services to the subject property with an acceptable response time and the property is accessed by Spruce Road, a paved local county road.

Finding #12 – Additional vehicle traffic associated with the proposed use is not anticipated to generate excessive traffic which would adversely impact the immediate neighborhood because the traffic generated from the proposed use is anticipated to be similar to existing traffic conditions in the area.

Finding #13 – The proposed use is not anticipated to have an immediate neighborhood impact because the multi-family dwelling will not create excessive noise, vibration, dust, heat, glare, smoke, fumes, gas or other odors, and will operate in a manner consistent with residential uses and the surrounding residential area.

VI. CONCLUSION

Upon review of this application, the request to allow for a multi-family dwelling on the subject property is generally supported by the review criteria and the 13 Findings of Fact listed above. Should the Flathead County Board of Adjustment choose to adopt staff report FCU-13-01 as Findings of Fact and approve the conditional use permit, the following 10 conditions would ensure compliance with the review criteria and appropriate measures to mitigate impacts:

VII. CONDITIONS

1. Construction of the multi-family building on the subject property shall be in substantial conformance with the application materials and site plan as submitted and approved by the Board of Adjustment and modified by the conditions below [FCZR Section 2.06.010].
2. Changes or modifications to the approved use or the site plan shall not be affected unless specifically approved in writing by the Flathead County Board of Adjustment [FCZR Section(s) 2.06.010 and 2.06.020].
3. The approved use shall conform to the applicable standards of the RA-1 Residential Apartment zoning designation [FCZR Section 3.15].
4. The subject property shall have a minimum of 18 parking spaces to accommodate the proposed 8 units, in accordance with the applicable zoning regulations [FCZR Section(s) 6.01.020 and 6.02.030].

5. All required off-street parking and residential driveways associated with the multi-family dwelling shall meet the applicable design guidelines and special conditions set forth in the Flathead County Zoning Regulations [FCZR Section(s) 6.11 and 6.14].
6. The proposed use shall be reviewed by the Flathead County Road and Bridge Department to obtain an approach permit for multi-family dwellings. A copy of the approved permit shall be available upon request by Flathead County Planning and Zoning.
7. All signage on the subject property shall comply with all applicable standards and guidelines set forth under Section 5.11 of the Flathead County Zoning Regulations.
8. All lighting on the subject property shall adhere to the performance standards set forth in Section 5.12 of the Flathead County Zoning Regulations.
9. The conditional use permit shall terminate twelve (12) months from the date of authorization if commencement of authorized activity has not begun, unless the applicant can demonstrate and maintain a continuous effort in good faith in commencing the activity. [FCZR Section 2.06.060].
10. At the end of 12 months from the date of authorization of this permit staff will inspect to verify compliance [FCZR Section 2.06.060].

Planner: EKM